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SUPREME COURT OF THE UNITED STATES.

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No. 4 Orig.

O.T. 1907

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JAMES H. McKENNEY,
CLERK.

THE UNITED STATES OF AMERICA, COMPLAINANT,

vs.

JOHN F. SHIPP ET AL.

BRIEF FOR DEFENDANTS OPPOSING MOTION OF THE ATTORNEY GENERAL TO REQUIRE WITNESSES TO BE EXAMINED AT WASHINGTON, D. C., INSTEAD OF CHATTANOOGA, TENN.

GEORGE W. CHAMLEE,
LEWIS SHEPHERD,
Attorneys.

JUDD & DETWEILER (INC.), PRINTERS, WASHINGTON, D. C. 25006

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1906.

No. 12, Original.

THE UNITED STATES OF AMERICA, COMPLAINANT,

vs.

JOHN F. SHIPP ET ALS., DEFENDANTS.

Brief of Defendants Opposing Motion of the Attorney General to Require Witnesses to be Examined at Washington, D. C., Instead of Chattanooga, Tennessee.

The court is familiar with the proceedings of this cause, and this brief is presented in opposition to a motion of the Attorney General, which motion means, if granted, that all the witnesses for the Government in these cases must be examined at Washington, D. C., instead of at Chattanooga, Tennessee.

The reason why the defendants oppose this motion is that they are all poor men, except the sheriff, and not able to pay the expenses of going from Chattanooga to Washington and there remaining, with their attorneys, during the time that

the Government will be taking its proof. It cannot be said that this proof can be heard in their absence, because the charges are serious, and the court has laid down the rule that in contempt cases the defendants are entitled to meet the witnesses face to face. If this hearing is to be had at Washington and the proof taken there, it will practically amount to a denial of justice, because the defendants do not know what the Government's proof will be, nor just which of the defendants are liable to be affected by any witness. It is necessary, therefore, for all of them to be present at this hearing. The defense of the officers and the alleged lynchers is not necessarily the same, and there is no one attorney in the case in a position to represent them all; so that it becomes necessary for most all the attorneys who have been actively engaged in these cases to attend these hearings. We say that there is no reason in the world why the witnesses for the Government should not tell the facts about this case at Chattanooga, Tennessee, just as freely as at any other place. And if after the hearing has commenced at Chattanooga, any witness is intimidated, the court has power to change the place of the hearing and also to punish the offending party, if such a case were possible. Public opinion is in a mood now to hear freely, frankly, and unreservedly all the facts of this case at Chattanooga without intimidation towards anybody.

To take these witnesses away from Chattanooga and deprive these defendants of the right to meet them face to face, as must necessarily result, is a great hardship upon them, and particularly so if they are innocent, as they claim to be, and especially on account of their poverty.

Many of these defendants have heretofore filed their affidavits showing that they are unable to pay the expenses of their own witnesses to the city of Washington, and they now appeal to your honors not to have this hearing at Washington, because it imposes hardships upon them that they cannot bear, and is as to some of them a denial of justice.

We most respectfully and earnestly insist that there is no sound reason or foundation for the argument that the witnesses for the Government will testify to facts in Washington, D. C., that they are unwilling to tell at the home of the witnesses and when surrounded by their own families and friends. Besides, the law is sufficient to protect the witnesses, and there ought not to be a precedent established by this court, that its commissioner or examiner was unable to get the truth out of witnesses because of the sentiment at the place of the hearing being reported as favorable to the accused when the law presumes the accused innocent of the charges against him.

We most earnestly submit that this honorable court should not make an order in these cases that will prevent the defendants from having the fullest opportunity to show their innocence in this case, and for that reason the motion of the Attorney General should be overruled.

Respectfully submitted,

GEO. W. CHAMLEE,
LEWIS SHEPHERD,
Attorneys.